

EXHIBIT 1

INTRODUCTION

Respondent California Pro-Life Council, Inc. PAC (the “Committee”) is a state general purpose campaign committee, sponsored by the California Pro-Life Council, Inc. (the “Sponsor”). The Sponsor is located in Sacramento, and is the California affiliate of the National Right to Life Committee, located in Washington D.C. At all times relevant to this matter, Respondent James Mathwig was the treasurer of Respondent Committee. This case arose from an audit of Respondent Committee by the Franchise Tax Board (the “FTB”) for the period January 1, 1997 through December 31, 1998.

During the audit period, Respondents reported receiving contributions totaling \$90,529, and making expenditures totaling \$101,086. The FTB audit found that Respondents failed to timely file eight late independent expenditure reports disclosing late independent expenditures totaling \$64,465 made prior to the 1998 primary and general elections.

For the purposes of this Stipulation, Respondents’ violations of the Political Reform Act (the “Act”)¹ are stated as follows:

COUNT 1: Respondents California Pro-Life Council, Inc. PAC and James Mathwig failed to file a late independent expenditure report, disclosing a \$1,656 late independent expenditure made on or about May 19, 1998 in support of Mike Briggs for State Assembly, by the May 20, 1998 due date, in violation of Section 84204, subdivision (a).

COUNT 2: Respondents California Pro-Life Council, Inc. PAC and James Mathwig failed to file a late independent expenditure report, disclosing \$45,673 in late independent expenditures made on or about October 31, 1998 in support of Dan Lungren for Governor, by the November 1, 1998 due date, in violation of Section 84204, subdivision (a).

COUNT 3: Respondents California Pro-Life Council, Inc. PAC and James Mathwig failed to file a late independent expenditure report, disclosing a \$2,856 late independent expenditure made on or about October 31, 1998 in support of Tim Leslie for Lieutenant Governor, by the November 1, 1998 due date, in violation of Section 84204, subdivision (a).

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

- COUNT 4: Respondents California Pro-Life Council, Inc. PAC and James Mathwig failed to file a late independent expenditure report, disclosing a \$2,856 late independent expenditure made on or about October 31, 1998 in support of Bill Jones for Secretary of State, by the November 1, 1998 due date, in violation of Section 84204, subdivision (a).
- COUNT 5: Respondents California Pro-Life Council, Inc. PAC and James Mathwig failed to file a late independent expenditure report, disclosing a \$2,856 late independent expenditure made on or about October 31, 1998 in support of Curt Pringle for State Treasurer, by the November 1, 1998 due date, in violation of Section 84204, subdivision (a).
- COUNT 6: Respondents California Pro-Life Council, Inc. PAC and James Mathwig failed to file a late independent expenditure report, disclosing a \$2,856 late independent expenditure made on or about October 31, 1998 in support of Gloria Matta Tuchman for Superintendent of Public Instruction, by the November 1, 1998 due date, in violation of Section 84204, subdivision (a).
- COUNT 7: Respondents California Pro-Life Council, Inc. PAC and James Mathwig failed to file a late independent expenditure report, disclosing a \$2,856 late independent expenditure made on or about October 31, 1998 in opposition to Ronald George for Chief Justice of the California Supreme Court, by the November 1, 1998 due date, in violation of Section 84204, subdivision (a).
- COUNT 8: Respondents California Pro-Life Council, Inc. PAC and James Mathwig failed to file a late independent expenditure report, disclosing a \$2,856 late independent expenditure made on or about October 31, 1998 in opposition to Ming Chin for Justice of the California Supreme Court, by the November 1, 1998 due date, in violation of Section 84204, subdivision (a).

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to ensure that receipts and expenditures affecting election campaigns are fully disclosed to the public, so that voters may be better informed, and improper practices may be inhibited. To that end, the Act sets forth a comprehensive campaign reporting system designed to accomplish this purpose of disclosure.

Independent Expenditures

Section 82031 defines an “independent expenditure” as an expenditure made by any person in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage, or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election, but which is not made to, or at the behest of, the affected candidate or committee.

Late Independent Expenditures

Section 82036.5 defines a “late independent expenditure” as any independent expenditure which totals in the aggregate one thousand dollars (\$1,000) or more, and is made for or against any specific candidate or measure involved in an election, before the date of the election but after the closing date of the last campaign statement required to be filed prior to the election by a candidate or committee participating in the election.

Under Section 84200.7, subdivision (a), the closing date of the last campaign statement required to be filed prior to the June 2, 1998 primary election was seventeen days prior to the election, or May 16, 1998. Under Section 84200.7, subdivision (b), the closing date of the last campaign statement required to be filed prior to the November 3, 1998 primary election was seventeen days prior to the election, or October 17, 1998.

Duty to File Late Independent Expenditure Reports

Under Section 84204, subdivision (a), any candidate or committee making a late independent expenditure is required to report the late independent expenditure by facsimile transmission, telegram, guaranteed overnight mail through the United States Postal Service, or personal delivery within 24 hours of the time the expenditure is made.

When a late independent expenditure report must be filed by a candidate or committee, Section 84204, subdivision (c) provides that the report must be filed wherever the candidate or committee would be required to file campaign statements, if the candidate or committee were a committee formed or existing primarily to support or oppose the candidate or measure for or against which the late independent expenditure is being made. In the case of a late independent expenditure made in support or opposition to a candidate for a statewide elective office or supreme court justice, Section 84215, subdivision (a) requires that the late independent expenditure report, disclosing the expenditure, be filed with the California Secretary of State, the Registrar-Recorder of Los Angeles County, and the Registrar of Voters for the City and County of San Francisco.

Liability of Committee Treasurers

Under Section 81004, subdivision (b), Section 84100, and Regulation 18427, subdivision (c), it is the duty of a committee’s treasurer to ensure that the committee complies with all of the requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds. A committee’s treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee. (Sections 83116.5 and 91006.)

SUMMARY OF THE FACTS

Respondent Committee is a state general purpose campaign committee, sponsored by the California Pro-Life Council, Inc. (the “Sponsor”). The Sponsor is located in Sacramento, and is the California affiliate of the National Right to Life Committee, located in Washington D.C. At all times relevant to this matter, Respondent James Mathwig was the treasurer of Respondent Committee.

In November 2000, the FTB completed an audit of Respondent Committee for the reporting period January 1, 1997 through December 31, 1998. According to the audit, Respondents received contributions totaling \$90,529, and made expenditures totaling \$101,086.

COUNT 1
Failure to File a Late Independent Expenditure Report
June 2, 1998 Primary Election

The FTB audit found that on May 19, 1998, Respondents made payments to two radio stations in Fresno for radio spots supporting Mike Briggs, a candidate for the 29th Assembly District in the June 2, 1998 primary election. The late reporting period for the primary election was from May 17, 1998 to June 2, 1998.

Respondents made a \$936 payment to KIRV for 78 radio spots, which ran from May 20, 1998 through June 1, 1998 and a \$720 payment to KRDU for 72 radio spots, which ran from May 21, 1998 through June 1, 1998. The text for the radio spots expressly advocated the election of Mike Briggs in the Assembly primary election, by urging listeners to vote for him. The payments to the radio stations, which totaled \$1,656, qualified as late independent expenditures since the radio spots expressly advocated the election of Mike Briggs to the Assembly seat, the sum of the two payments was in excess of the threshold amount of \$1,000, and the payments were made during the late reporting period, prior to the June 2, 1998 primary election. The late independent expenditures that Respondents made are set forth below:

Count	Date	Candidate	Office	Description	Amount	Date Due
1	May 19, 1998	Mike Briggs	Assembly	Radio Spots	\$936	May 20, 1998
	May 19, 1998	Mike Briggs	Assembly	Radio Spots	\$720	May 20, 1998
Late Independent Expenditure Total					\$1,656	

Respondents failed to file a late independent expenditure report within 24 hours of making the late independent expenditures on May 19, 1998, as set forth above, in violation of Section 84204, subdivision (a).²

COUNTS 2 – 8
Failure to File Late Independent Expenditure Reports
November 3, 1998 General Election

The FTB audit found that on October 31, 1998, Respondents made payments for a campaign slate mailer to support five candidates for statewide elected office, and to oppose two candidates for the California Supreme Court, in the November 3, 1998 general election. Respondents also made payments for a telephone bank on October 31, 1998 to support a candidate for Governor. The late reporting period for the November 3, 1998 general election was from October 18, 1998 to November 3, 1998.

² During this election period, Respondents also made a \$2,848 late independent expenditure for a telephone bank in support of 49th Assembly District candidate Barbara Messina. On June 1, 1998, Respondents filed a late independent expenditure report disclosing this activity.

On or about October 31, 1998, Respondents made a payment to EU Services in the amount of \$34,267 for the production of a campaign slate mailer that expressly advocated the election of Dan Lungren for Governor, Tim Leslie for Lieutenant Governor, Bill Jones for Secretary of State, Curt Pringle for State Treasurer, and Gloria Matta Tuchman for Superintendent of Public Instruction. The two supreme court justice candidates opposed by Respondents in the slate mailer were Chief Justice Ronald George and Justice Ming Chin. Based on the size and placement of the candidates' names in the campaign slate mailer, one half of the total payment for the mailer, or \$17,131, was attributed to Dan Lungren, and one sixth of the remaining payment, or \$2,856, was attributed to each of the other six candidates mentioned in the mailer. On the same day, Respondents also made a payment to Western Union Communications, Inc. in the amount of \$28,542 for a telephone bank, which expressly advocated the election of Dan Lungren for Governor in the November 3, 1998 general election.

The above payments, which totaled \$62,809, qualified as late independent expenditures since they expressly advocated the election and defeat of candidates for statewide elected office, were in excess of the threshold amount of \$1,000, and were made during the late reporting period prior to the November 3, 1998 general election. The late independent expenditures that Respondents made during this late reporting period are set forth below:

Count	Date	Candidate	Office	Description	Amount	Date Due
2	October 31, 1998	Dan Lungren	Governor	Slate Mailer & phone bank	\$45,673	Nov. 1, 1998
3	October 31, 1998	Tim Leslie	Lt. Governor	Slate Mailer	\$ 2,856	Nov. 1, 1998
4	October 31, 1998	Bill Jones	Sec. of State	Slate Mailer	\$ 2,856	Nov. 1, 1998
5	October 31, 1998	Curt Pringle	State Treasurer	Slate Mailer	\$ 2,856	Nov. 1, 1998
6	October 31, 1998	Gloria Tuchman	Sup. of Public Instruction	Slate Mailer	\$ 2,856	Nov. 1, 1998
7	October 31, 1998	Ronald George	Supreme Court	Slate Mailer	\$ 2,856	Nov. 1, 1998
8	October 31, 1998	Ming Chin	Supreme Court	Slate Mailer	\$ 2,856	Nov. 1, 1998
Late Independent Expenditure Total					\$62,809	

Respondents failed to file seven independent expenditure reports within 24 hours of making the late independent expenditures on October 31, 1998, as set forth above, in violation of Section 84204, subdivision (a).

CONCLUSION

Respondents were negligent in failing to file the necessary late independent expenditure reports prior to the June 2, 1998 primary election, and the November 3, 1998 general election. In aggravation, the total amount of late independent expenditures not timely reported was substantial, and was nearly 64% of the total expenditures made during the audit period. Respondents filed a late independent expenditure report for a \$2,848 late independent expenditure made in support of Assembly candidate Barbara Messina prior to the June 2, 1998 primary election. As such, Respondents were aware of the requirement to file late independent expenditure reports. The failure to report a significant amount of late independent expenditures deprived the voters of important

information regarding who was supporting and opposing several candidates for statewide elected office.

In further aggravation, Respondent Committee has been the subject of several FTB audits and a Commission enforcement case. On July 2, 1998, the Commission approved a 2-count settlement agreement with Respondent Committee, and imposed an administrative penalty of \$3,000 for Respondent Committee's failure to properly report occupation and employer information for contributors, and to timely file two campaign statements.

In mitigation, although over one year late, Respondents filed a late independent expenditure report on November 25, 1999, disclosing the \$62,809 in late independent expenditures, which had been made on October 31, 1998. Respondents also timely reported all of the independent expenditures on semi-annual campaign statements that were filed. In addition, Respondent Committee retained the services of company experienced with the Act's requirements to assist in preparing campaign statements.

The typical administrative penalty for failing to file a late independent expenditure report has historically ranged from \$1,000 to \$2,000 per report. For Counts 1 through 8, considering the aggravating circumstance that the failure to disclose late independent expenditures prior to the election dates deprived voters of time-sensitive information, and the fact that Respondent Committee has a lengthy enforcement history, an administrative penalty in the middle to upper end of the penalty range would ordinarily be appropriate. However, with regard to Count 1, and Counts 3 through 8, the amount of the late independent expenditures is fairly low, ranging from \$1,656 to \$2,856. As such, an administrative penalty in the lower range is more appropriate.

With regard to Count 2, since the amount of the late independent expenditures for Dan Lungren for Governor were very substantial, totaling \$45,673, an administrative penalty in the upper range is more appropriate.

This matter consists of eight counts, which carry a maximum possible administrative penalty of Sixteen Thousand Dollars (\$16,000). Based on facts of this case, and the mitigating and aggravating circumstances addressed herein, the agreed upon total administrative penalty of Eleven Thousand Dollars (\$11,000) is justified.